

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No: 38777-0054

Applicant(s): Milan S. BLAKE *et al.*

Confirmation No.: 3657

Appl. No.: 09/825,769

Art Unit: 1645

Filing Date: April 4, 2001

Examiner: Vanessa L. Ford

Title: METHOD FOR THE PRODUCTION OF BACTERIAL TOXINS

**STATEMENT OF AVAILABILITY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, Patrick S. Eagleman, am the Corporate Counsel at Baxter BioScience, a division of Baxter Healthcare.

1. I hereby declare that *Bordetella pertusis* (BP536pWY) has been deposited by Baxter Healthcare Corp. with the American Type Culture Collection as a Budapest Treaty Patent Deposit. The deposit has been assigned accession number PTA-3254. A copy of the deposit receipt for the American Type Culture Collection is attached as Tab 1.

2. Baxter Healthcare Corp. will irrevocably remove all restrictions on the availability of the deposit upon the granting of a patent.

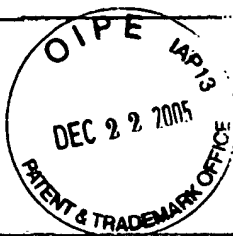
I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements and the like are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Respectfully submitted,

April 14, 2005  
Date

Patrick S. Eagleman  
Reg. No. 44,665

**ATCC**

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE****INTERNATIONAL FORM****RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Baxter Healthcare Corporation  
Attn: John A. Bogdan, Jr.  
10150 Old Columbia Road  
Columbia, MD 21046-2358

Deposited on Behalf of: Baxter Healthcare Corporation

Identification Reference by Depositor:  
Bordetella pertussis: BP536pWY

Patent Deposit Designation  
PTA-3254

The deposit was accompanied by:     a scientific description     a proposed taxonomic description indicated above.The deposit was received April 4, 2001 by this International Depository Authority and has been accepted.AT YOUR REQUEST:   X   We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive,  
or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark  
Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to  
replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most  
recent request for a sample, whichever is longer. The United States and many other countries are signatory to the  
Budapest Treaty.

The viability of the culture cited above was tested April 12, 2001. On that date, this culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Kanya Nunnally  
Kanya Nunnally, Patent Specialist, Patent Depository

Date: April 21, 2001

cc: Louis C. Culman  
(Ref: Docket or Case No.: 20947-47)

B.P. 02

**BEST AVAILABLE COPY**